

Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-32-06

WHEREAS, **ROYD LEMUS & RAQUEL LAU** applied to Community Zoning Appeals

Board 14 for the following:

- (1) AU to BU-1A
- (2) Applicants are requesting to waive the zoning regulations requiring a 5' high masonry wall where a business lot abuts EU zoned property, along the rear (west) and interior side (south) property lines.
- (3) Applicants are requesting to waive the zoning regulations requiring all uses to be conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure.
- (4) UNUSUAL USE to permit outdoor dining.
- (5) Applicants are requesting to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication (90' required) on the west side of Krome Avenue adjacent to the subject property.

OR IN THE ALTERNATIVE TO REQUEST #5, THE FOLLOWING:

- (6) Applicants are requesting to permit 51 parking spaces (75 required).

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2, 3 & 5 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance) and approval of request #6 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance.)

Plans are on file and may be examined in the Zoning Department entitled "Redland Market," as prepared by Rocco J. Ceo, consisting of 3 sheets and dated stamped received 9/21/05.

SUBJECT PROPERTY: The north 330' of the east $\frac{3}{4}$ of the SE $\frac{1}{4}$ of Section 12, Township 56 South, Range 38 East, less the west 1,686.68' thereof, being subject to an ingress-egress easement across the north 35' thereof.

LOCATION: The Southwest corner of S.W. 177 Avenue & S.W. 208 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 14 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 14 that district boundary change to BU-1A (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the requested unusual use (Item #4) and the requests to waive the zoning regulations requiring a 5' high masonry wall where a business lot abuts EU zoned property, along the rear (west) and interior side (south) property lines (Item #2), and to waive the zoning regulations requiring all uses to be conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure (Item #3), and the requests to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication on the west side of Krome Avenue adjacent to the subject property (Item #5) or in the alternative, to permit 51 parking spaces (Item #6) would not be compatible with the area and its development and would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and that the requested unusual use (Item #4) would have an adverse impact upon the public interest and should be denied and said application was denied by Resolution No. CZAB14-10-06, and

WHEREAS, **ROYD LEMUS & RAQUEL LAU** appealed the decision of Community Zoning Appeals Board 14 to the Board of County Commissioners for the following:

- (1) AU to BU-1A
- (2) Applicants are requesting to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) and interior side (south) property lines.

- (3) Applicants are requesting to waive the zoning regulations requiring all uses to be conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure.
- (4) UNUSUAL USE to permit outdoor dining.
- (5) Applicants are requesting to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication (90' required) on the west side of Krome Avenue adjacent to the subject property.

OR IN THE ALTERNATIVE TO REQUEST #5, THE FOLLOWING:

- (6) Applicants are requesting to permit 51 parking spaces (75 required).

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2, 3 & 5 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance) and approval of request #6 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance.)

Plans are on file and may be examined in the Zoning Department entitled "Redland Market," as prepared by Rocco J. Ceo, consisting of 3 sheets and dated stamped received 9/21/05. Plans may be modified at public hearing.

SUBJECT PROPERTY: The north 330' of the east $\frac{3}{4}$ of the SE $\frac{1}{4}$ of Section 12, Township 56 South, Range 38 East, less the west 1,686.68' thereof, being subject to an ingress-egress easement across the north 35' thereof.

LOCATION: The Southwest corner of S.W. 177 Avenue & S.W. 208 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a Declaration of Restrictions which among other things provided:

1. That the Property shall be developed in accordance with the plans previously submitted, entitled "Redland Market," as prepared by Rocco J. Ceo, consisting of three (3) sheets, dated stamped received September 21, 2005, as may be modified at the public hearing on the Application (the "Plan").
2. That notwithstanding the approval of the Application or the proposed BU-1A zoning classification of the Property, the use of the Property shall be restricted to a farmer's market, as depicted on the Plan. Further, the Owner agrees that (1) sixty-five percent (65%) of the total patron area, including the shade house, at the market

shall be used for the display and sale of locally produced, raised or grown products, including, without limitation, fresh produce, flowers, foliage, and vinicultural and other agricultural products. The remaining patron area shall be used for the display and sale of products necessary to support the rural residential community, including, without limitation, agricultural products not available locally during the off-season and food products of any kind. For purposes of this paragraph, the term "locally produced, raised or grown" shall refer to items or products raised, grown or produced in the agricultural area of Miami-Dade County. The display and sale of lottery products, beauty products and personal hygiene/health care products shall be prohibited.

3. That to the extent that a detached point of sale sign is used in connection with the operation of the farmer's market, said sign shall be of a monument type and shall not exceed a height of twelve feet (12'), as measured from grade to the top of the sign.

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

WHEREAS, after reviewing the record and decision of the Metropolitan Dade County Zoning Appeals Board 14 and after having given an opportunity for interested parties to be heard, it was the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that that the grounds and reasons alleged by the appellants specified in the appeal were sufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB14-10-06 and the appeal should be granted and the decision of Community Zoning Appeals Board 14 should be overruled, and

WHEREAS, upon due and proper consideration having been given to the matter it is the opinion of this Board that the requested district boundary change to BU-1A (Item #1) would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that a portion of the request to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) property line (Item #2), and the requests to waive the zoning regulations requiring all uses to be

conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure (Item #3), and to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication on the west side of Krome Avenue adjacent to the subject property (Item #5) would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the proffered Declaration of Restrictions should be accepted, and that the requested unusual use to permit outdoor dining (Item #4) and that portion of the request to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the interior side (south) property line (Item #2) would not be compatible with the area and its development and would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and that the requested unusual use (Item #4) would have an adverse impact upon the public interest and should be denied without prejudice, and

WHEREAS, a motion to accept the proffered Declaration of Restrictions, grant the appeal and overrule the decision of Community Zoning Appeals Board 14, approve Items #1, #3, and #5 as non-use variances, approve a portion of Item #2 to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) property line, deny Item #4 with out prejudice, and deny a portion of Item #2 to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the interior side (south) property line was offered by Commissioner Dennis C. Moss, seconded by Commissioner Rebecca Sosa, and upon a poll of the members present the vote was as follows:

Bruno A. Barreiro	absent	Dennis C. Moss	aye
Jose "Pepe" Diaz	absent	Dorrin D. Rolle	aye
Audrey M. Edmonson	aye	Natacha Seijas	absent
Carlos A. Gimmenez	aye	Katy Sorenson	nay
Sally A. Heyman	absent	Rebecca Sosa	aye
Barbara J. Jordan	aye	Sen. Javier D. Souto	absent

Chairperson Joe A. Martinez aye

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Miami-Dade County, Florida, that the appeal be and the same is hereby granted and the decision of Community Zoning Appeals Board 14 is overruled.

BE IT FURTHER RESOLVED that the requested district boundary change to BU-1A (Item #1) be and the same is hereby approved and said property is hereby zoned accordingly.

BE IT FURTHER RESOLVED that a portion of the request to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) property line (Item #2), and the requests to waive the zoning regulations requiring all uses to be conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure (Item #3), and to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication on the west side of Krome Avenue adjacent to the subject property (Item #5) be and the same are hereby approved as non-use variances, subject to the following conditions:

1. That a site plan be submitted to and meet with the approval of the Director upon the submittal of an application for a building permit and/or Certificate of Use; said plan to include among other things but not be limited thereto, location of structure, or structures, display area, types, sizes and location of signs, light standards, off-street parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled Redland Market," as prepared by Rocco J. Ceo, consisting of 3 sheets and dated stamped received 9/21/05, except as herein modified to delete the outdoor dining area.

3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submit to the Department of Planning and Zoning for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Use.
5. That no stringer lights, pennants, mobile or stationary visual devices, except as permitted under point of sale regulations, shall be used or displayed.
6. That the applicant obtain a Certificate of Use from the Department of Planning and Zoning, upon compliance with all terms and conditions, the same subject to cancellation upon violation of an of the conditions.
7. That the applicant comply with all applicable conditions and requirements of the Department of Environmental Resources Management (DERM).
8. That the applicant comply with all applicable conditions and requirements of the Public Works Department.
9. That the use of outdoor loudspeakers shall be prohibited.

BE IT FURTHER RESOLVED that the requested unusual use to permit outdoor dining (Item #4) and that portion of the request to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the interior side (south) property line (Item #2) be and the same are hereby denied without prejudice.

BE IT FURTHER RESOLVED that Resolution No. CZAB14-10-06 is hereby null and void.

BE IT FURTHER RESOLVED that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations

BE IT FURTHER RESOLVED, notice is hereby given to the applicant that the request herein constitutes an initial development order and does not constitute a final development

order and that one, or more, concurrency determinations will subsequently be required before development will be permitted.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning and to issue all permits in accordance with the terms and conditions of this resolution.

THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED this 14th day of September, 2006, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 06-3CZ14-2

ej

HARVEY RUVIN, Clerk
Board of County Commissioners
Miami-Dade County, Florida

By KAY SULLIVAN
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 25TH DAY OF SEPTEMBER, 2006.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Earl Jones, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-32-06 adopted by said Board of County Commissioners at its meeting held on the 14th day of September, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 25th day of September, 2006.



Earl Jones, Deputy Clerk (3230)
Miami-Dade County Department of Planning and Zoning

SEAL





Department of Planning and Zoning

Stephen P. Clark Center

111 NW 1st Street • Suite 1210

Miami, Florida 33128-1902

T 305-375-2800

miamidade.gov

September 25, 2006

Royd Lemus & Raquel Lau
c/o Michael Friere
701 Brickell Avenue
Suite 3000
Miami, Florida 33131

Re: Hearing No. 06-3CZ14-2
Location: The Southwest corner of S.W. 177 Avenue
& S.W. 208 Street, Miami-Dade County, Florida

Dear Applicant:

Enclosed herewith is Resolution No. Z-32-06, adopted by the Board of County Commissioners, which **accepted your Declaration of Restrictions, and approved your request for a district boundary change to BU-1A (Item #1), approved Items #3, 5, and a portion of Item #2 to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) property line, and denied Item #4 without prejudice and denied a portion of Item #2 to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the interior side (south) property line without prejudice on the above described property.** Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. Failure to comply with stipulated conditions, if any, will result in the immediate issuance of a civil violation notice for each condition violated. Each notice issued may require payment of a daily monetary fine.


If, as stipulated in the resolution, building permits and/or use, occupancy or completion certificates will be required, note that permits must be obtained and final inspection approvals received for construction work done or required prior to issuance of the applicable certificate(s) pursuant to Section 33-8 of the Zoning Code. Payment of certificates may be subject to annual renewal by this Department. Application for required permits and/or certificates related to use, occupancy or completion should be made with this Department, or the Building Department as appropriate. At time of permit application you must provide a copy of this resolution. If there are anticipated changes from any plan submitted for the hearing, a plot use plan is to be submitted to this Department in triplicate before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

The Board's decision may be appealed by an aggrieved party to Circuit Court within 30 days of the date of transmittal of the resolution to the Clerk of the County Commission. The transmittal date is **September 25, 2006**. In the event an appeal is filed, any building permit sought shall be at the risk of the party seeking said permit. Copies of any court filings concerning this matter should be served upon both my office and:

Murray A. Greenberg, County Attorney
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128-1993

The County Attorney is not permitted to accept official service of process.

Sincerely,


Earl Jones
Deputy Clerk

Enclosure

ADA Coordination
Agenda Coordination
Animal Services
Art in Public Places
Audit and Management Services
Aviation
Building
Building Code Compliance
Business Development
Capital Improvements
Citizens' Independent Transportation Trust
Commission on Ethics and Public Trust
Communications
Community Action Agency
Community & Economic Development
Community Relations
Consumer Services
Corrections & Rehabilitation
Cultural Affairs
Elections
Emergency Management
Employee Relations
Empowerment Trust
Enterprise Technology Services
Environmental Resources Management
Fair Employment Practices
Finance
Fire Rescue
General Services Administration
Historic Preservation
Homeless Trust
Housing Agency
Housing Finance Authority
Human Services
Independent Review Panel
International Trade Consortium
Juvenile Services
Medical Examiner
Metro-Miami Action Plan
Metropolitan Planning Organization
Park and Recreation
Planning and Zoning
Police
Procurement Management
Property Appraisal
Public Library System
Public Works
Safe Neighborhood Parks
Seaport
Solid Waste Management
Strategic Business Management
Team Metro
Transit
Task Force on Urban Economic Revitalization
Vizcaya Museum And Gardens
Water & Sewer